

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FOREST L. FATE, SR.,

Plaintiff,

-VS-

**NURSE JULIENNO, MPH, LNA, CCHP, ACA, as the
MEDICAL ADMINISTRATOR at the ROCKLAND
COUNTY CORRECTIONAL FACILITY s/h/a
NURSE JULIEANNO a/k/a JOULIANA
PETRANKER, SHERIFF FALCO, ED DAY,
COUNTY COMMISSIONER and CORRECT CARE
SOLUTIONS MEDICAL DEPT.,**

Defendants.

NOTICE OF MOTION

Civil No. 19-cv-5519-NSR

PLEASE TAKE NOTICE:

MOTION BY:

BARCLAY DAMON, LLP

Attorneys for Defendants

Office and Post Office Address
100 Chestnut Street, Suite 2000
Rochester, New York 14604

DATE, TIME AND PLACE OF HEARING:

_____, 2020 at ____am/pm
Hon. Nelson S. Román
U.S. District Court Judge
United States District Court
Southern District of New York
300 Quarropas Street
White Plains, New York 10601

SUPPORTING PAPERS:

Declaration of Paul A. Sanders, dated
February 12, 2020 and accompanying
Exhibits, and Memorandum of Law dated
February 12, 2020.

RELIEF DEMANDED:

An Order dismissing Plaintiff's Amended
Complaint pursuant to Fed. R. Civ. P. Rule
12(b)(6), and for such other, further, and

additional relief as this Court deems just and proper.

GROUND FOR RELIEF:

Plaintiff's Amended Complaint fails to state a cause of action upon which relief can be granted pursuant to Fed. R. Civ. P. Rule 12(b)(6).

The Amended Complaint fails to allege facts establishing a municipal policy, custom or official conduct that amounts to a Constitutional violation sufficient to state a cognizable claim pursuant to 42 U.S.C. § 1983 and *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658 (1978).

For all of the reasons set forth in the accompanying Memorandum of Law.

DEMAND FOR ANSWERING PAPERS:

Pursuant to this Court's Memorandum Endorsement (*Dkt.* 45), any opposing papers from Plaintiff shall be served not filed March 16, 2020; and Defendant's reply shall be served March 31, 2020. The parties shall provide two copies of their respective motion documents to Chambers on the dates the documents are served upon their adversary. Defendant's counsel will file all motion documents, including Plaintiff's opposition, on the reply date, March 31, 2020.

Note that the failure to respond to this motion may result in dismissal of the Amended Complaint and termination of this action.

DATED: February 12 , 2020

BARCLAY DAMON LLP

By: /s/ Paul A. Sanders
Paul A. Sanders

*Attorneys for Defendant
Correct Care Solutions*

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